

REMARKS/ARGUMENTS

The rejections presented in the Office Action dated May 12, 2009, (hereinafter Office Action) have been considered but are believed to be improper. Reconsideration of the pending claims and allowance of the application in view of the present response is respectfully requested.

Applicant respectfully traverses each of the § 103(a) rejections, each of which is based on a combination of the teachings of U.S. Publication No. 2003/0023759 by Littleton *et al.* (hereinafter “Littleton”) as modified by those of U.S. Publication No. 2001/0041592 by Suonpera *et al.* (hereinafter “Suonpera”) and U.S. Patent No. 6,247,135 to Feague (hereinafter “Feague”) because the asserted references alone, or combined as asserted, fail to teach or suggest each of the claimed limitations. The Office Action acknowledges that Littleton fails to teach a separate, second synchronization step for binding data as claimed. In an effort to overcome this deficiency in the teachings of Littleton, the Office Action relies on the teachings of Suonpera; however, this reliance is misplaced.

Suonpera also has not been shown to teach or suggest performing a second synchronization step between a first synchronization device and a second synchronization device in response to the performance of a first synchronization step between the two devices, as claimed. Although Suonpera teaches using two synchronization steps, the separate synchronization steps are not performed between the same devices. Rather, a first device synchronizes with an intermediate computer and then the computer synchronizes with a second device (*see, e.g.*, Abstract). Contrary to the assertion at page four, cited paragraph three does not teach that data is transferred directly from phone to phone. Also, the cited portion at paragraph sixty-one teaches only the first synchronization step - that the phone transfers the content for each record to the PC application. In addition, the cited portions of Suonpera do not teach transferring binding data in a separate synchronization step. Rather, the cited portion at paragraph sixty-four indicates that the asserted transfer of data from the first device to the PC application (first synchronization step of Suonpera) may include the asserted voice tags or other data selected by the user. Thus, Suonpera has not been shown to teach a second synchronization step between two devices in response to a

first synchronization step between the same devices where the second synchronization step includes transferring binding data for the user data unit synchronized in the first synchronization step, as claimed. As Feague has not been asserted as teaching, or shown to teach, such limitations, none of the asserted references teaches or suggests at least these limitations. Without a presentation of correspondence to each of the claimed limitations, the § 103(a) rejections are improper.

In order to establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974); and moreover, “[a]ll words in a claim must be considered in judging the patentability of that claim against the prior art.” *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). *See, e.g.*, MPEP § 2143.03. The Examiner appears to have ignored certain claim limitations such as those directed to a second synchronization step between a first synchronization device and a second synchronization device in response to the performance of a first synchronization step between the two devices, which are not taught by any of the cited references. Littleton does not teach a second synchronization step and Suonpera does not teach a second synchronization step between the same two devices. Since the asserted modifications of Littleton fail to teach at least these limitations, the rejections are improper. Applicant accordingly requests that each of the rejections be withdrawn.

Dependent Claims 3-7, 22, 24-26, 28-31, 33-36, 38, 40-43, and 45 depend from independent Claims 1, 18, 23, 32, and 39, and each of these dependent claims also stands rejected under 35 U.S.C. § 103(a) as being unpatentable over the above-discussed teachings of Littleton, Suonpera, and Feague. While Applicant does not acquiesce to any particular rejections to these dependent claims, including any assertions concerning descriptive material, obvious design choice and/or what may be otherwise well-known in the art, these rejections are moot in view of the remarks made in connection with the independent claims above. These dependent claims include all of the limitations of their respective base claims and any intervening claims and recite additional features which further distinguish these claims from the cited references. “If an independent claim is nonobvious under 35 U.S.C.

§103, then any claim depending therefrom is nonobvious.” MPEP § 2143.03; *citing In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988). Therefore, dependent Claims 3-7, 22, 24-26, 28-31, 33-36, 38, 40-43, and 45 are also patentable over the asserted teachings of Littleton, Suonpera, and Feague.

With respect to the § 103(a) rejection of dependent Claims 8, 27, 37, and 44 based upon the teachings of Littleton, Suonpera, and Feague combined with those of U.S. Publication No. 2003/0220966 by Hepper *et al.* (hereinafter “Hepper”), Applicant traverses as the asserted references alone, or in combination, do not teach each of the claimed limitations. As discussed above, the modifications to Littleton fail to at least teach performing a second synchronization step, as claimed. As Hepper has not been shown, and does not appear, to teach at least these absent limitations, the further reliance on Hepper does not overcome the above-discussed deficiencies in the § 103(a) rejections. Therefore, the rejection is improper, and Applicant requests that the rejection be withdrawn.

It should be noted that Applicant does not acquiesce to the Examiner’s statements or conclusions concerning what would have been obvious to one of ordinary skill in the art, obvious design choices, common knowledge at the time of Applicant’s invention, officially noticed facts, and the like. Applicant reserves the right to address in detail the Examiner’s characterizations, conclusions, and rejections in future prosecution.

Authorization is given to charge Deposit Account No. 50-3581 (KOLS.054PA) any necessary fees for this filing. If the Examiner believes it necessary or helpful, the undersigned attorney of record invites the Examiner to contact the undersigned attorney to discuss any issues related to this case.

Respectfully submitted,

HOLLINGSWORTH & FUNK, LLC
8009 34th Avenue South, Suite 125
Minneapolis, MN 55425
952.854.2700

Date: August 12, 2009

By: /Erin M. Nichols/

Erin M. Nichols
Reg. No. 57,125